



Introduced and read January 14th, 2019  
Amendments                     , 2019  
Second Reading and Adoption Feb 11, 2019

**THE TOWN OF CAPITOL HEIGHTS**  
**Ordinance 2019- 1**  
(Drafted by Neighborhood Services Department)  
Introduced by: Councilwoman Renita Cason

**AN ORDINANCE TO GOVERN VACANT LOTS, PROPERTY, AND UNSAFE BUILDINGS WITHIN THE TOWN OF CAPITOL HEIGHTS**

WHEREAS, Section 214(a) ("General powers") of the Capitol Heights Charter state the "The Council shall have the general power to pass all such ordinances...as it may deem necessary for the good government of the Town"; and

WHEREAS, the Mayor and Council of the Town of Capitol Heights desires to eliminate blight within the Town boundaries; and

WHEREAS, the Mayor and the Council desire to add Chapter 14 ("VACANT BUILDING, VACANT LOT REGISTRATION AND UNSAFE BUILDINGS") to the Capitol Heights Charter, which will delineate regulations effecting Capitol Heights vacant buildings, lots and unsafe buildings; and

WHEREAS, the Mayor and Council is proposing the adoption of fees, registration requirements and remediation plans and penalties as part of this ordinance;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Town of Capitol Heights amends the Capitol Heights Charter to add Chapter 14 ("VACANT BUILDING, VACANT LOT REGISTRATION, AND UNSAFE BUILDINGS") which shall read as follows:

**Chapter 14**

**VACANT BUILDINGS, VACANT LOT REGISTRATION, AND UNSAFE BUILDINGS**

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## **ARTILCE I**

### **Vacant Building**

#### **14-1 Purpose and Policy**

The health, welfare, and safety of the residents of Capitol Heights need to be protected from the ill effects of poor property maintenance and all ramifications arising therefrom. Further, the value of all property within the corporate limits of the Town of Capitol Heights needs to be protected from said ill effects and ramifications. Thus, the Town of Capitol Heights hereby establishes requirements for the registration and maintenance of vacant buildings, for the registration of vacant lots, and for the governance of unsafe buildings.

#### **14-2 Definitions**

In this Chapter, the definitions in The IPMC, International Property Maintenance Code, as amended from time to time shall apply, with the following exceptions:

IPMC - International Property Maintenance Code – International Property Maintenance Code, as amended from time to time.

TOWN – the Town of Capitol Heights, Maryland

TOWN ADMINISTRATOR – Town Administrator of the Town of his/her designated representative.

VACANT BUILDING – shall mean a building is (1) empty or (2) not occupied on a regular and habitual basis by the owner, tenant, agent of the owner or other person having permission of the owner to occupy the building or (3) not used by the owner, tenant, agent of the owner, or other person having permission of the owner on a regular and habitual basis for the usual and customary purposes for which a building is designated and lawfully permitted or (4) partially occupied as defined in 14-3 below.

#### **14-3 Obligation to Register Vacant Buildings**

- A. Commercial and Industrial Buildings. Except as provided in Subsection C below with respect to rental properties that are less than twenty-five percent (25%) occupied and Subsections D, E, F, and G below with respect to single family dwellings, whenever any commercial or industrial building in the Town is vacant for more than sixty (60) days, or whenever any building in the Town is vacant as such building or premises thereof contains one or more of the public nuisances described in the IPMC -International Property Maintenance Code, as amended from time to time and herein incorporated in the Town's Code of Ordinances, then the owner of such building shall, within ten (10) business days of notification by the Town, register such a building as a vacant building and submit a vacant building plan.
- B. Mixed Use Residential and Commercial Properties. Whenever the commercial portion of any mixed use residential and commercial building in the Town is vacant for more than sixty (60) days, or whenever any such portion of such building in the Town is and such portion of such building of the premises thereof contains one or more of the public nuisances described in the International Property Maintenance Code, as amended from time to time, in the Town's Code of Ordinances, then the owner of such building shall, within ten (10) business days of notification by the Town, register such portion of such building as a vacant building and submit a vacant building plan. Whenever the residential portion of any mixed use residential and commercial building in the Town is less than twenty-five percent (25%) occupied for more than sixty (60) days, or whenever any such portion of such building in the Town is less than twenty-five percent (25%) occupied and such portion of such building or the premises thereof contains one of more of the public nuisances described in the International Property Maintenance Code, as amended from time to time and herein incorporated in Town's Code of Ordinances, then the owner of such portion of such building shall, within ten (10) business days of notification by the Town, register such portions of such building as a vacant building and submit a vacant building plan.
- C. Residential Rental Properties 25% or Less Occupied. Whenever any building designed as a rental property with four or more dwelling units is twenty-five percent (25%) or less occupied and such building or premises thereof contains one or more of the defects described in the International Property Maintenance Code, as amended from time to time and herein incorporated in the Town's Code of Ordinance, then the owner of such building shall, within ten (10) business days of notification by the Town, register such building as a vacant building and submit a vacant building plan.
- D. Single Family Dwellings, Previously Owner Occupied. Whenever any building designed as a single-family dwelling is vacant and the immediately preceding occupant was the owner and the owner will not occupy the premises of such building or such building or premises thereof contains one or more of the defects described in the IPMC, International Property Maintenance Code, as amended from time to time and herein incorporated in the Town's Code of Ordinances, then the

owner of such building shall, within ten (10) business days of notification by the Town, register such building as a vacant building and submit a vacant building plan.

- E. Single Family Dwellings, Previously Not Owner Occupied. Whenever any building designed as a single-family dwelling is vacant and the immediately preceding occupant was not the owner of such vacant building or premises thereof contains one or more of the defects described in the International Property Maintenance Code, as amended from time to time and herein incorporated in the Town's Code of Ordinances, then the owner of such building shall, within ten (10) business days of notification by the Town, register such building as a vacant building and submit a vacant building plan.
- F. Single Family Dwellings, Previously Owner Occupied, New Owner Will Not Occupy. Whenever any building designed as a single-family dwelling is vacant and the immediately preceding occupant was the owner and ownership has changed hands and the new owner will not occupy the premises or such vacant building or premises thereof contains one or more of the defects described in the International Property Maintenance Code, as amended from time to time and herein incorporated in the Town's Code of Ordinances, then the owner of such building shall, within ten (10) business days of notification by the Town, register such building as a vacant building and submit a vacant building plan.
- G. Single Family Dwellings, Previously Owner Occupied, New Owner Will Occupy. Whenever any building designed as a single-family dwelling is vacant and the immediately preceding occupant was the owner and ownership has changed hands and the new owner will occupy the premises and such building or premises thereof contains one or more of the defects described in the International Property Maintenance Code, as amended from time to time and herein incorporated in the Town's Code of Ordinances, then the owner of such building shall within ten (10) business days of notification by the Town, register such building as a vacant building and submit a vacant building plan.
- H. The obligation to register a vacant building exists if the conditions in Subsections A, B, C, D, E, F, or G of this section exist, without regard to whether the building is for sale.

#### **14-4 Registration Requirements**

- A. Notice of Registration Requirements. Upon a determination by the Neighborhood Services Director that a building in the Town is required to be registered pursuant to 14-3 of this article, the Property Standards Authority Manager shall provide notice to the owner or agent of the requirement to register the building and submit a vacant building plan to the Property Standards Authority Manager. In the event of the existence of any public nuisance as defined in the International Property Maintenance Code, as amended from time to time and herein incorporated in the

Town's Code of Ordinances, in connection with the building or premises thereto, then the Property Standards Authority Manager shall specify in the notice the existence of such nuisance(s). The failure of the Property Standards Authority Manager, or the failure of any owner to receive notice from the Property Standards Authority Manager, shall not relieve the owner of the obligation to register such building as a vacant building and submit a vacant building plan.

**B. Registration of Vacant Buildings, Filing Fee.**

1. The owner or agent registering a vacant building shall supply the following information:
  - i. Name, address, email, and telephone number of owner.
  - ii. Name, address, email, and telephone number of any local agent or representative.
  - iii. Name, address, email, and telephone number of all persons with any ownership interest in the building and premises.
  - iv. Name, address, email, and telephone number of any and all mortgagors.
  - v. Legal description and tax account number of the premises on which the building is situated.
  - vi. The common street address of the building.
  - vii. Date on which building became vacant.
  - viii. Vacant building plan. - submit two (2) copies
2. The vacant building registration shall be filed with the Town Clerk. If the registration is for a building designed as other than single family dwelling and is required under subsection A or B of 14-3 of this article, it shall be accompanied by the filing fee of six hundred dollars (\$600.00) or the amount of such fee as established by the Mayor and Council. If the registration is for a building designed as a single family dwelling and is required under subsections C, D, E, F, or G of 14-3 of this article, it shall be accompanied by a filing fee of three hundred dollars (\$300.00) or the amount of such fee as established by the Mayor and Council. Registration of the vacant building shall be valid for a period of six (6) months. If the building is still vacant at the expiration of any six month registration period and the requirements of the vacant building plan are not completed, then the owner shall re-register such building and pay an additional filing fee equivalent to the initial filing fee or amount of such fee as established by the Mayor and Council. If the building is still vacant at the expiration of any six-month registration period but the requirements of the vacant building plan are completed, the owner shall re-register such building, without the requirement of a new vacant building plan but with a payment of twenty-five percent (25%) of the usual filing fee if the building was required to be registered under 14-3 of this article.

3. No fee is required if the building was required to be registered under subsection G of 14-3 of this article, except that if the building remains vacant for one-year after the initial registration, the building will be treated according to subsection F of 14-3 of this article and a fee will be required accordingly.
- C. Other Enforcement. The registration of a vacant building shall not preclude action by the Town to force repair of the building or to initiate condemnation and demolition of the building pursuant to other provisions of this code or other law.
  - D. Placarding. The owner or agent of the registered building shall place a Town-provided identification placard on the building's exterior as directed by the Neighborhood Services Director so as to be clearly visible from the nearest public right-of-way. Such identification placard shall be kept in readable condition by the owner or agent, and shall provide the following information: owner's name, address, email, phone number, and expiration date of registration. The Neighborhood Services Director may require removal of all other signage and graffiti at the owner's expense.
  - E. A post office box does not suffice as an address for the purpose of the registration statement. The Town Clerk shall be notified within fifteen (15) calendar days of any change in the agent designated by the owner or any change in the address of the owner or agent.

#### **14-5 Vacant Building Plan.**

When a building is registered as required herein, the owner or agent of the owner shall submit a vacant building plan. The plan shall contain the following:

- A. A plan of access to the interior by the Property Standards Authority Inspector of sufficient frequency to determine that, from evidence on the interior, the exterior structure is in good repair, structurally sound, sanitary, and weatherproof.
- B. A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured by any means other than conventional methods used in the design of the building or permitted for new construction of similar type. The proposed repair shall result in openings secured by conventional methods used in the design of the building or by methods permitted for new construction of similar type.
- C. For buildings and property which are identified as being or containing defects which constitute public nuisances, then the vacant building plan shall contain a plan of action remedy such public nuisance(s).

- D. For each required plan, a time schedule shall be submitted identifying a date of commencement of repair and date of completion of repair for each improperly secured opening and identified defect.
- E. Whenever the owner proposes to demolish the vacant building, then the owner shall submit a plan and time schedule for such demolition and obtain the necessary permit(s) as required pursuant to other provisions of this code or other law.
- F. A plan of action to maintain the building and premises in conformance with the International Property Maintenance Code.
- G. Approval of Plan. If the proposed vacant building plan complies with the standards herein and in regulations to be promulgated by the Neighborhood Services Director, the Property Standards Authority Manager, shall approve it. If the Property Standards Manager approves the plan, notice shall be sent to the owner or agent of the vacant building.
- H. Authority to Modify and Appeal Right. The Property Standards Manager shall, upon notice to the vacant building owner or agent, have the right to modify the vacant building plan by altering the dates of performance or the proposed methods of action. If the owner or agent of the vacant building objects to the modifications made by the Property Standards Manager, such owner or agent shall have the right to appeal to the Neighborhood Services Director for final determination. Such appeal shall be in writing and personally delivered or sent by certified mail, return receipt requested, to Property Standards Authority Manager within fifteen (15) calendar days of the date of the Property Standards Authority Manager's notice of modification. If no appeal is filed, then the plan as modified by the Property Standards Authority Manager shall constitute the approved vacant building plan.
- I. Neighborhood Services Director's Review on Appeal.
  - 1. The Neighborhood Services Director shall specify a time and place for an appeal conference on a vacant building plan; shall advise the owner, in writing, of the time and place of the appeal conference. At the appeal conference, the owner shall be permitted to present reasons to support the appeal and relevant evidence why the Property Standards Authority Manager's modification of the vacant building plan should be rejected.
  - 2. In considering the appropriateness of a vacant building plan on appeal, the Neighborhood Services Director shall consider the following:
    - i. The public interest in minimizing the period of time a building is vacant, boarded up, and/or has any defects which constitute public nuisances.
    - ii. The effect of the proposed plan on adjoining property and/or the neighborhood in which the building is located.

- iii. Whether there is practical difficulty or unnecessary hardship (financial or otherwise) to the owner connected with the performance of any act required by the plan.
  - iv. The length of time the building has been vacant.
  - v. The presence of any public nuisance on the property.
3. After the appeal conference, the Neighborhood Services Director shall render his/her decision on the owner's or agent's appeal of the Property Standards Authority Manager's modifications to the proposed vacant building plan. The Neighborhood Services Director shall have the right to fashion his/her own vacant building plan or to approve or modify the plan submitted by the owner or agent or to approve or further modify the plan as modified by the Property Standards Authority Manager. The decision of the Neighborhood Services Director shall be final and constitute the approved vacant building plan.

J. Failure to Submit or to Comply With Plan.

1. If an owner of a vacant building fails to submit a vacant building plan, the Property Standards Authority Manager shall develop a plan and give notice of the plan to the vacant building owner or agent. The owner shall be charged for the preparation of the vacant building plan by the Property Standards Authority Manager at a rate not to exceed two and a half times the hourly wage of the Property Standards Authority Manager, and the costs for the all materials. If the owner or agent objects to the plan made by the Property Standards Authority Manager, such owner or agent shall have the right of appeal to the Neighborhood Services Director for final determination. Such appeal shall be in writing and personally delivered or sent by certified mail, return receipt requested, to the Property Standards Authority Manager within (15) calendar days of the date of the Property Standards Authority Manager's notice of modification. If no appeal is filed, then the plan as modified by the Property Standards Authority Manager shall constitute the approved vacant building plan.
2. Failure to comply with an approved vacant building plan shall constitute a violation of this Section and subject the owner or agent of the building to penalties upon conviction as provided in the Chapter.

- K. Change of Ownership. The vacant building plan shall remain in effect even if ownership changes. Within thirty (30) calendar days of the date of any change of ownership, the new owner or agent shall file a new vacant building registration with the Town, and supply the name, address, email, and the telephone number of the new owner(s). The new registration shall be in the same form as the original registration; the new registration shall be accompanied by twenty-five percent (25%) of the usual filing fee.



- L. Maintenance Standards. The owner of a vacant building shall comply with the all Town of Capitol Heights ordinances including Chapter 14.

#### **14-6 Penalties**

- A. Municipal Infraction. The failure of an owner of a vacant building to file registration statement when it is due, to pay the registration fee, to provide all information required with registration or to file a vacant building plan is municipal infraction with a fine of two hundred dollars (\$200.00). Each additional sixty (60) days a violation exists is a separate violation subject to an additional two hundred dollars (\$200.00) fine.
- B. Lien and Real Property. All Registration fees and fines, when overdue, are a lien in favor of the Town on the vacant lot may be collected and enforced in the same manner as delinquent real property taxes.

### **ARTICLE II Vacant Lot Registration**

#### **14-7 Definitions:**

LOT- An area of land designated as a separate parcel or unit of land on a legally recorded subdivision plat or deed filed among the Land Records of Prince George's County and assigned a property tax account identified number.

OWNER -- the record property owner of the vacant lot, but does not include a government entity or an instrumentality or unit of a governmental entity.

VACANT LOT -- a lot without a building or other improvement which has an assessed value as determined by the State Department of Assessment and Taxation.

#### **14-8 Registration Required**

- A. Owner to Register Annually. By July 1 of each year, beginning July 1, 2019, each owner of a vacant lot shall file a vacant lot registration statement with the Town on a form provided by the Town Clerk or his/her designee.
- B. Registration Fee. There shall be an annual registration fee for each vacant lot, payable at the time of registration. The amount of such fee is to be established by the Mayor and Council.
- C. Purchaser Required to Register Upon Acquisition. A new owner of a vacant lot must file a registration statement within thirty (30) days of the acquisition and pay the annual registration fee, unless that fee was already paid by the prior owner.

#### **14-9 Registration Requirements**

The registration statement shall contain the following information:

- A. A description of the vacant lot by street address, property tax account identification number, and any other information required in order to accurately identify the vacant lot;
- B. The name, address, email, and telephone number of the property owner of record, in addition, if the owner is corporation, limited liability company, limited liability partnership, or limited partnership, the name, address, email, and telephone number of the resident agent and, if the owner is a partnership or other entity not having a resident agent, the name, address, email, and telephone number of all partners, owners or officers of the owner or of authorized agent of the owner; and
- C. The name, address, email, and telephone number of the owners authorized agent if an agent has been designated by the owner.
- D. A post office box does not suffice as an address for the purpose of the registration statement. The Town Clerk shall be notified within fifteen (15) calendar days of any change in the agent designated by the owner or any change in the address of the owner or agent.

#### **14-10 Exception to Vacant Lot Registration Requirement**

No registration of a vacant lot is required if:

- A. The vacant lot is zoned as residential and the owner occupies a residence on a lot contiguous to the vacant lot;
- B. The vacant lot is contiguous to a lot with an occupied building and both lots are under common ownership; or
- C. The vacant lot is being utilized as a parking lot in compliance with County zoning ordinance and other applicable laws.

#### **14-11 Penalties**

- A. Municipal Infraction. The failure of an owner of a vacant lot to file a registration statement when it is due, to pay the registration fee, or to provide all information required with registration is a municipal infraction with a fine of two hundred dollars (\$200.00). Each additional sixty (60) days a violation exists is a separate violation subject to an additional two hundred dollars (\$200.00) fine.

- B. Lien on Real Property. All registration fees and fines, when overdue, are a lien in favor of the Town on the vacant lot and may be collected and enforced in the same manner as delinquent real property taxes.

### **ARTICLE III**

#### **Unsafe Buildings; Public Nuisance Declared**

##### **14-12 Definitions**

All buildings or structures, or parts thereof, which may have any or all of the following defects shall be deemed unsafe buildings:

- A. Those which have been damaged by fire, wind, storm or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the public;
- B. Those which have become or are so dilapidated, decayed, damaged, unsanitary, unsafe, or vermin or rodent-infested that it creates a hazard to the health safety, or general welfare of the occupants or the public;
- C. Those having light, air, sanitary, plumbing or heating facilities or other essential equipment which are inadequate to protect the health, safety or general welfare of the occupants or the public;
- D. Those having inadequate facilities for egress in case of fire or panic or which are dangerous to life health, property or the safety of its occupants by not providing minimum protection from fire;
- E. Those which are structurally unsound, dangerous, or of such faulty construction or unstable foundation that they are likely to partially or completely collapse, or which have parts thereof which are so attached that they may fall and injure members of the Town or their property.
- F. Those which vacant, abandoned or are blighting or deteriorating factors in the neighborhood or which because of their general condition or unsafe, unsanitary, or otherwise dangerous to the health, safety or general welfare of the public.

##### **14-13 Declaration of Unsafe Buildings as Public Nuisance**

- A. All unsafe buildings are hereby declared to be public nuisances, and shall be repaired as provided in the Chapter or the Town shall initiate condemnation and demolition under applicable law.

- B. Whenever the Property Standards Authority Inspector determines that a building in the Town is unsafe and a public nuisance, as defined in 14-12 of this article, the Property Standards Authority Inspector shall give written notice and a correction order to the owner and/or to all other persons having an interest in the property, as shown by the property tax records of the Town, of any building found by him or her to be unsafe building and a public nuisance.
- C. The notice and correction order provided for in subsection B of this section shall:
  - 1. Specify the particulars which make the building or part of it as unsafe building;
  - 2. Describe with reasonable accuracy the unsafe building and its location;
  - 3. Describe in general terms the corrective action which, if taken, will affect compliance with the Chapter.
  - 4. Establish a reasonable time to do or have done the work or act required by the notice and correction order.
  - 5. Advise of the potential penalties for violation of this Chapter as set forth in 14-21, and of the right to appeal the notice and correction order as set forth in 14-15 of this article.
- D. An owner served with a notice and correction order shall correct the violation of this Chapter within the time specified in the notice and correction order.
- E. Following the expiration of the period of the time provided in subsection C of this section, the Property Standards Authority Inspector, shall re-inspect the unsafe building described in the notice and correction order.
- F. When, after a re-inspection, the Property Standards Authority Inspector determines that the violation specified in the notice and correction order has not been corrected or has only been partially corrected, the Property Standards Authority Inspector shall report such noncompliance to the Property Standards Authority Manager and take any other action authorized by this Chapter to ensure compliance with or prevent violation of its provisions.

#### **14-14 Standards for Repair; Vacation, or Demolition**

The following standards shall be followed in ordering or initiating the repair, demolition, vacating, and placarding and securing of any unsafe building:

- A. Repair. If the unsafe building can be reasonably repaired so that it will no longer be in violation of the terms of this Chapter, it shall be ordered to be repaired. The owner of an unsafe building that has been ordered to be repaired shall be given notice of the required repairs and a reasonable time to make the repairs.
- B. Demolition. In any case where an unsafe building is substantially damaged or decayed or deteriorated from its original value or structure, the building cannot reasonably be repaired so that it will no longer be in violation of the terms of this Chapter, and the building is not architecturally significance shall be based on the

level of contributing resource according to the listing for the National Register nomination. If level of contributing resource classification is A, B, or C, it shall be deemed significant. If it is deemed significant and if the cost of the reasonable repair does not exceed twenty-five (25%) of the estimated market value of the property, condemnation and demolition will be initiated. In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of the Town or provision of County or State law, condemnation and demolition will be initiated.

- C. Vacating and Placarding. If an unsafe building or part of it is in such condition as to make it dangerous to life, property or public safety, the building or part of it shall be ordered to be placarded and vacated. The owner and any occupants of any unsafe building that has been ordered to be vacated shall be given notice to vacate immediately or within a specified time and a warning placard of appropriate size shall be posted at each entrance to such a building.
1. The warning placard shall include language similar to the following: THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE TOWN OF CAPITOL HEIGHTS. The placard also shall include the Chapter and Section of the Code under which it is issued; an order that the building when vacated must remain vacant until the provisions of the order are complied with the order to vacate is withdrawn; the date that the placard is posted; and a statement of the penalty for defacing or removing the placard. The warning placard shall remain posted until the required repairs are made or demolition is completed.
  2. No person shall deface or remove any warning placard after it has been posted until the required repairs or demolition has been completed. The penalty for removal as set forth in 14-21 shall be clearly visible on placard.
  3. No person shall remain in or enter any unsafe building which has been so posted except for the purpose of making the required repairs or of demolishing the same.
  4. Any person occupying an unsafe building or part of one which has been ordered to be vacated shall vacate the building or part if it in accordance with the terms of the warning placard and order to vacate.
  5. A person shall not occupy and an owner shall not permit a person to occupy an unsafe building or part of it which has been posted with a warning placard and ordered to be vacated until the Property Standards Authority Inspector approves the re-occupancy and removes the warning placard.
  6. Once the unsafe building is vacant, the owner, at its own expense, shall secure and board all windows and doors that are accessible from the ground, from the adjacent structure, or by the reasonably foreseeable use of a ladder, table or other device, and must keep them secured against unauthorized entry. All such sealing of buildings shall be conducted in conformance with 14-17.

7. Upon the failure of any owner or occupant of an unsafe building which has been ordered to be vacated to vacate the building or part of it or the failure of an owner to properly secure or seal the unsafe building, the Town may cause the building to be vacated or secured through appropriate court action, or by contract or arrangement with private persons. The costs thereof, including reasonable attorney's fees, shall be paid by the owner. The Town shall send the owner a bill for the cost by certified mail, return receipt requested, or by regular mail to the owner's last known address or by any other means reasonably calculated to bring the bill the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the costs shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special arrangements, and other liens on real property or collected as provided for in 14-21.

#### **14-15 Hearings on Unsafe Buildings**

- A. A person aggrieved by a notice and correction order requiring the repair, demolition, vacating, placarding or securing of an unsafe building issued under 14-13 of this article may file with the Neighborhood Services Director a written notice of appeal specifying the reasons for contesting the notice or order.
- B. The notice of appeal shall be filed within the earlier of either ten (10) calendar days after the notice or order has been serviced on the person or within the time specified for correction of the violation in a notice and correction order issued under 14-13 of this article.
- C. Upon receipt of a properly filed notice of appeal, the Town shall give written notice to the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the Town, as the case may require, in the manner provided by 14-13 of this article to appear before the Appeals Board on a date and at a time and place specified to show cause why the unsafe building should not be repaired, demolished, vacated or secured in accordance with the statement of particulars set forth in the notice and correction order provided for in 14-13 of this article or in such other notice or order which is being appealed.
- D. The Appeals Board shall hold a hearing within 45 days of the date of receipt of the notice of appeal or report or noncompliance and hear such testimony as the Property Standards Authority Inspector, owner, occupant, and any other person having interest in the property shall offer relative to the unsafe building.
- E. Following the hearing, the Appeals Board shall:
  1. Make written findings from the testimony offered pursuant to subsection D of this section as to whether or not the building in question is an unsafe building.

2. Issue a final order based upon the findings of fact made pursuant to paragraph (1) of this subsection affirming, modifying, or revoking the notice and correction order or such other notice or order which is the subject of the appeal and, if applicable, commanding the owner, occupant, and all other persons having an interest in the property to repair, demolish, vacate or secure any building found to be an unsafe building.
3. The Appeals Board may grant a variance from the provisions of this Chapter whenever it finds that all of the following conditions are met:
  - i. There is practical difficulty or unnecessary hardship connected with the performance of an act required by this Chapter;
  - ii. Strict adherence to the Chapter would be arbitrary; and
  - iii. A variance is consistent with the public health, safety, and welfare.
- F. If the Appeals Board fail to hold a hearing within 45 days of the date of receipt of the notice of appeal or fail to make written findings of fact and issue a final order within on (1) month after the date of the hearing, then the original notice or order shall be remanded to the owner for the appeal under provisions of this section; or with the written consent of the person who filed the notice of appeal, the time period for the Appeals Board to hold a hearing or to make findings of fact issue a final order may be extended for up to two (2) additional months.
- G. Any person aggrieved by a final order of the Appeals Board issued under this section may file a petition for judicial review with the Mayor and Council of Capitol Heights of Maryland. The procedures for an appeal from a final order of the Mayor and Town Council shall be governed by Title 7, Chapter 200 (Judicial Review of Administrative Agency Decisions) of the Maryland Rules, as amended.

#### **14-16 Recordation; Liability of Transferee**

- A. The Mayor and Council may cause a final order issued under 14-15 to be recorded among the Land Records of Prince George's County.
- B. A transferee, successor, or assignee of the unsafe building described in a recorded final order shall be considered to have a notice of the continuing existence of the violations and is subject to the penalties and procedures provided by this Chapter to the same degree as was the transferor, predecessor, or assignor.
- C. On determining that there has been compliance with a recorded final order issued under this Chapter, the Town Clerk shall cause a notice of compliance to be recorded among the land records of the County. The notice of compliance shall recite the liber and folio land record reference of the recorded final order.

#### **14-17 Sealing of Buildings**

- A. Sealing From Interior. It shall be unlawful within the Town for any person or entity to board up or seal the windows, doors, or openings of any vacant building or structure in such a manner that it is visible from the exterior of the building, without

first having obtained a permit from the Town Clerk pursuant to subsection C of this section below. It shall further be unlawful for any person or entity having any interest in said property by way of lease, deed, mortgage, deed of trust or otherwise to allow such boarding or sealing or to suffer it to remain after due notice.

- B. Responsibility of Owner. It shall be the responsibility of the owner of the property to remove all unsanitary or flammable material and to board up all windows and doors after a building has been properly determined to be unfit for human use, if such boarding up is determined by the Neighborhood Services Director to be necessary for reasons of health or safety and not in violation of the provisions of this article.
- C. Permit Required for all Sealing from Exterior. It shall be the burden of an applicant to show the necessity of sealing the structure from the outside. The approval or disapproval shall be in writing. The Neighborhood Services Director shall consider the following factors in approving or disapproving an application for a permit for boarding up or sealing a building:
  - 1. The extent of the boarding up and/or sealing that is required;
  - 2. The hardship which the applicant will suffer from rejection of this application;
  - 3. The visibility of the boarding or sealing;
  - 4. The impact of sealing the structure on the safety and welfare of the immediate neighborhood and of the Town; and
  - 5. The practicality of sealing the structure by drawing shades or windows coverings from the inside.
- D. Expiration Date of Permit. Each permit shall expire (6) months from the date of its issuance. The Neighborhood Services Director may renew such permit only after a review of the facts in light of the above criteria.
- E. Standards for Sealing. Any boarding or sealing of any windows, door frames or other openings shall be done as follows:
  - 1. The material for boarding or sealing shall be plain wooden material and it shall be of one piece whenever possible;
  - 2. Sealing or boarding material must be in a size at least as large (but no larger) than the opening which it covers;
  - 3. Material that will be exposed to the elements shall be made to be weather resistant; and
  - 4. All materials shall be applied in such a manner as to be as unobtrusive as possible.
- F. Bond or Other Security. The applicant shall be required to post a bond, cash or other security to ensure maintenance both of the boarding and sealing of the property so as to ensure the lawn is mowed, the grounds are taken care of and all debris is removed. A bond shall be set in only such amount as determined by the Property



Standards Authority Manager to ensure that this work shall be accomplished during the permit period.

- G. Sealing in Emergency. In case of fire, storm damage, or any other emergency, a building may be boarded up or sealed immediately according to the previous specifications of this Chapter; provided however, that the permit shall be applied for within ten (10) calendar days of the emergency boarding or sealing.
- H. Notice that Permit Required. If a structure is boarded up or sealed without obtaining a permit, the Property Standards Authority Manager or his/her designee shall notify the owner or owners, tenant or tenants, or person or persons in possession of the real estate in writing to remove the sealing material within ten (10) calendar days after the date such notice and upon failure to remove the boarding or sealing within the time specified, the Town shall have the right to remove all illegal boards and sealing material from all openings visible from any public right-of-way and to remove unsanitary or flammable wasted materials and to do such exterior maintenance as is necessary.
- I. The cost of these actions shall be paid by the owner. The Town shall send the owner a bill for the costs of such work by certified mail, return receipt requested, or by regular mail to the owner's last known address or by any other mean reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens or real property or collected as provided for in 14-12.

#### **14-18 Emergencies**

- A. Emergency Action. Whenever in the judgement of the Neighborhood Services Director an emergency exists which requires immediate action to protect the health, safety, or welfare, an order may be issued without notice, conference or hearing, directing the owner, occupant, or agent of the building to take such action as is appropriate to correct or abate the emergency.
- B. Vacating Building. When in the opinion of the Neighborhood Services Director there is a clear and present danger to the health or safety of the occupants of an unsafe building the Neighborhood Services Director is authorized and empowered to order and require the occupants to vacate the same forthwith. The Neighborhood Services Director shall cause to be posted at each entrance to such building a warning placard, in accordance with 14-14, and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repair or of demolishing the same.
- C. Temporary Safeguards. When in the opinion of the Neighborhood Services Director there exist grossly unsanitary conditions or an immediate danger of

collapse or failure of a building or structure or any part thereof which would endanger life, property or public safety, he/she shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the notice and correction order and any other procedures set forth in this Chapter have been followed.

- D. Closing Streets. When necessary for the public safety, the Neighborhood Services Director in conjunction with Chief of Police for the Capitol Heights Police Department may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings, and prohibit the same from being used.
- E. Emergency Repairs. For the purpose of this section, the Neighborhood Services Director shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- F. Costs of Emergency Repairs. All cost incurred in the performance of emergency work shall be paid by the owner of the real property upon which the building stands or did stand. The Town shall send the owner a bill for the costs of such emergency repair, vacation, or demolition by certified mail, return receipt requested, or by regular mail to the owner's last-known address or by any other means reasonably calculated to bring the bill to the owner's attention. If the owner does not pay the bill within one (1) month after it is presented, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are taxes, special assessments, and other liens on real property or collected as provided for in 14-21.

#### **14-19 Right of Entry**

- A. The Neighborhood Services Director, Property Standards Authority Manager, and Police or their designated representatives, upon exhibiting the proper credentials or proof of identity on request, shall have the right to enter any building in the Town at any reasonable hour or at such other times as may be necessary, including in an emergency that immediately endangers life, property or public safety for the purpose of performing duties under the Chapter or enforcing the provisions thereof.
- B. Police, Fire, health and other departments having authority in the Town shall render necessary assistance in the enforcement of this Chapter when requested to do so by the Neighborhood Services Director or Property Standards Authority Manager.

**ARTICLE IV**  
**Service, Violations, Penalties, and Enforcement**

**14-20 Service**

- A. Any notices or orders provided for in this Chapter shall be in writing and served upon the owner, occupant, and all other persons having an interest in the property as shown by the property tax records of the Town, as the case may require. Unless a different manner of service is specified in this Chapter, a notice or order is properly served if:
1. A copy is personally delivered which shall mean delivering a copy to the individual personally or leaving a copy at the individual's residence or usual place of abode with some individual of suitable age and discretion then residing therein or in the case of a corporation or a partnership or other unincorporated association, by delivering a copy to an officer, a managing or general partner or agent, or to any other agent authorized by appointment or by law to receive service; or
  2. A copy is sent by certified mail, return receipt requested, to the last known address of the owner occupant or other persons having an interest in the property.
- B. If, after reasonable effort, service cannot be made on the owner, occupant or other persons having an interest in the property by personal delivery or certified mail, then service of the notice or order may be made by regular mail to the last known address of the owner, occupant or other person having an interest in the property as shown by the property tax records of the Town, as the case may require, plus posting of the notice or order in a conspicuous place on or near the vacant building, vacant lot or unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.
1. In the case of personal delivery, "reasonable effort" means two good faith efforts on separate days to serve the notice to order; and
  2. In the case of certified mail, "reasonable effort" means return by the United States Postal Service of the properly addressed and stamped envelope containing the notice or order which was mailed by certified mail, or the return receipt thereof, marked as unclaimed, refused, addressee unknown, or other indicators of non-delivery.

**14-21 Violations and Penalties**

Unless other penalties are specified in this Chapter, a violation of any of the following will result in the imposition of the penalties stipulated in this section:

- A. Failure To Comply With Notice or Order. The failure of any owner of any vacant building, vacant lot or unsafe building to comply with any notice or order issued under this Chapter shall be a municipal infraction as provided for this Chapter and

the Town of Capitol Heights. Each sixty-day (60) period such failure to comply continues beyond the date fixed for compliance shall be deemed a separate offense. The penalties shall be two hundred dollars (\$200.00). Each additional sixty (60) days a violation exists is a separate offense subject to an additional two hundred dollars (\$200.00) fine.

- B. Failure To Comply With Placard or Notice To Vacate. The failure or any occupant of any unsafe building to comply with any posted warning placard or notice to vacate shall be misdemeanor offence as provided in this Chapter and the Town of Capitol Heights. The penalties shall be three hundred fifty dollars (\$350.00) for the first offense; six-hundred dollars (\$600.00) for the second offense; eight hundred dollars (\$800.00) for the third offense and one thousand dollars (\$1,000.00) for the fourth and subsequent offenses or imprisonment not to exceed three (3) months, or both.
- C. Defacing or Removing Placard or Failing to Keep Placard in Good Condition. The defacing or removal of any warning placard or notice which is posted on an unsafe building, or failing to keep the placard in good condition, shall be a municipal infraction as provided in the Chapter and the Town of Capitol Heights Code. The penalties shall be seventy-five dollars (\$75.00) for the first offense and one-hundred and fifty dollars (\$150.00) for a repeat offense in same one-year period.
- D. Lien on Real Property. All registration fees, fines or bills for service, when overdue, are liened in favor of the Town on the vacant building, vacant lot, or unsafe building and may be collected and enforced in the same manner as delinquent real property taxes.

## **14-22 Civil Enforcement**

In addition to the penalties for violations of this Chapter set forth in 14-21, the Town may:

- A. Enforce the provisions of this Chapter through injunctive, mandamus, or any other appropriate proceedings, and a court of competent jurisdiction may issue a restraining order, interlocutory or final injunction, mandamus or other form of relief to restrain or correct violations of this Chapter;
- B. Bring suit to collect all costs, assessments or liens imposed or incurred by the Town in repairing or causing to be vacated, secured or demolished unsafe buildings; and
- C. Take such other legal action as is necessary to carry out the terms or provisions of this Chapter.
- D. Closing Streets. When necessary for the public safety, the Neighborhood Services Director may in conjunction with the Chief of Police for Capitol Heights Police Department temporarily close sidewalks, streets, building and structures and places

adjacent to such vacant buildings, vacant lots or unsafe buildings, and prohibit the same from being use.

- E. Emergency Repairs. For the purpose of this Section, the Neighborhood Services Director shall employ the necessary labor and materials to perform the required work as expeditious as possible.

#### **14-23 No Liability**

**The Town assumes no liability and shall not be legally responsible in any way for any damages or loss of any kind to persons or property in undertaking the performance of any work owner is obligated to perform under this Chapter. The owner shall be solely responsible for any and all damages to persons or property that might arise from any work performed by the Town due to the inaction of the owner.**

**BE IT FURTHER RESOLVED** that each section, subsection, sentence, clause and phrase of the Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

**BE IT FURTHER RESOLVED** that the aforementioned ordinance shall become effective 20 days following its enactment.


READ AND ADOPTED THIS 11 day of Feb., 2019.

ATTEST:

  
\_\_\_\_\_  
Jason Small

Town Administrator

APPROVED:

  
\_\_\_\_\_  
Shawn Maldon

Mayor

  
\_\_\_\_\_  
Renita A. Cason

Renita A. Cason

Councilmember

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Faith Ford

Councilmember

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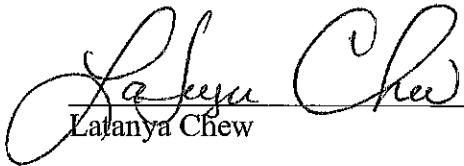
Elaine Williams

Councilmember

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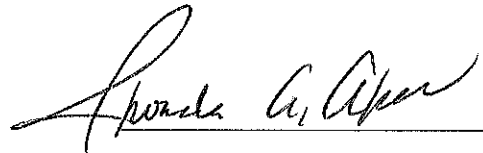
Carolyn Brown

Councilmember



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Councilmember



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Rhonda Akers

Councilmember

**EXPLANATION:**

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

((Double Parenthesis)) indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike Out~~ indicates matter stricken from bill by amendment or deleted from the law by amendment.